

SUMMARY OF NO. 15-10

This proposed law would amend the existing state public records law by giving the Secretary of State and the Supervisor of Records or other officer appointed by the Secretary additional authority to investigate violations of and to enforce the public records law. It would also require the state Attorney General to appoint a public records enforcement officer to file civil lawsuits to enforce the Supervisor of Records' orders issued under the public records law. These orders would need to be given deference by the Attorney General, the Attorney General's enforcement officer, or the District Attorney when taking action to enforce such an order.

The proposed law would allow the Supervisor of Records to issue regulations limiting fees that records custodians may charge for copies of records, with a maximum of 15 cents for black-and-white copies or 25 cents for color copies. Where the cost of responding to a public records request, including copying costs and time to search for and segregate records, is expected to exceed \$10, the proposed law would require the records custodian to provide the requester with a good-faith cost estimate before fulfilling the request. The proposed law would prohibit records custodians from charging for employee time spent searching for and segregating records unless that time exceeded two hours.

Under the proposed law, requests for public records could be made electronically. After an opportunity for a hearing, if a court finds that a records custodian or other official denied access to public records without reasonable grounds, the court could impose a civil penalty of \$20 to \$1,000 upon that records custodian or other official. If the court determined that access to records should have been provided in response to a public records request and that the records custodian or other responsible official acted in bad faith by denying access to those records, the court could award the requester reasonable attorneys' fees and costs.

The proposed law would also add to the existing public records exemption for investigative materials by providing that: (1) criminal investigative information shall be considered active only as long as the investigation is continuing and reasonably expected to result in an arrest or prosecution in the foreseeable future; and (2) any information that would identify victims and witnesses may be withheld indefinitely.

The proposed law would take effect on January 1, 2017. The proposed law states that, if any of its parts were declared invalid, the other parts would stay in effect.